

IN THE MATTER of the Ontario Human Rights Code,
1961-1962, and IN THE MATTER of a complaint
by Mr. Noel Lomer that the Corporation of
the City of Ottawa uses a form of application
for employment that requires an applicant to
furnish information concerning creed, nation-
ality, ancestry and place of origin, and of a
complaint by Mr. A. Alan Borovoy that the
Corporation of the City of Ottawa uses a form
of application for employment that expresses
directly a specification as to creed, nation-
ality and place of origin and that requires
an applicant to furnish information concerning
creed, nationality and place of origin,

AND IN THE MATTER of a BOARD OF INQUIRY set up under
the said Code.

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BOARD OF INQUIRY : His Honour Judge J. C. Anderson.

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ALAN BOROVY, Esquire, Executive Secretary, Toronto
and District Labour Committee for Human
Rights - Counsel and Complainant.

CHARLES L. DUBIN, Q.C., - Counsel for Ontario Human
Rights Commission and
Mr. Noel Max Lomer.

D. HANBLING, Q.C., - Counsel for City of Ottawa.

The Ontario Human Rights Commission,
8 York Street,
TORONTO, Ontario.

Gentlemen:

I was appointed by the Minister of Labour on the sixteenth day of August, 1963 as a Board of Inquiry under the Ontario Human Rights Code to inquire into the above mentioned complaints. By arrangement with the parties the hearing was postponed until January 15th, 1964, and on this date the hearing was held in the City Hall in Ottawa and was adjourned, and the hearing continued in the City Hall in Ottawa on February 15th, 1964.

There were two complaints referred to the Board of Inquiry. The first was that of Noel Lomer, which complaint was to the effect that the City of Ottawa used a form of application for employment which requested information on nationality, citizenship, religion, place of birth, father's name, father's place of birth, mother's maiden name, mother's place of birth, contrary to the Human Rights Code. The second complaint was by A. Alan Borovoy. This was filed on the 28th of December, 1962, and alleged that the form for employment used by the City of Ottawa expressed directly a specification as to the creed, nationality, place of origin of the applicant, contrary to the Code.

At the hearing on January 15th Her Worship Mayor Charlotte Whitton gave evidence and filed a brief explaining the requirements of the application form for the Corporation of the City of Ottawa, and Controller Jones likewise gave evidence and filed a brief. However, the city solicitor frankly admitted at this hearing that the forms for employment used by the City of Ottawa were in technical breach of the Human Rights Code.

Prior to the opening of the hearing on February 15th I attempted to conciliate the matter, and as a

result thereof upon the hearing being convened the City solicitor, Mr. Hambling, stated that it was a matter of record (he having already made a statement January 15th that the forms used by the City of Ottawa for employment were in technical breach of the statute) that "we have pleaded to technical breach of the statute and that no useful purpose would now be served if the Commissioner were to continue to hear conflicting evidence."

He then went on to make a statement on behalf of the City of Ottawa to the effect that while the City continues to protest, and without any prejudice to the City to make such protests to the Legislature by direct representations, that the City will undertake to adapt its application form to be in compliance with the statute.

Mr. Borovoy, one of the complainants, and as the Director of the Human Rights Committee of the Ontario Federation of Labour, said that he was happy with the settlement, but observed that probably to some extent the difficulty came about because of what the Ontario Federation of Labour thinks of as an anomalous situation where the Government of Ontario is immune to the Human Rights Code. Alderman Heit expressed himself as being happy with the outcome of the Inquiry. Alderman Dehler said that he too was pleased that a settlement had been affected and that there will be a compliance by the City with the forms of the Human Rights Code, and that he concurred with the observation of Alderman Heit.

It was apparent from the submissions of the Mayor and Controller Jones that they feel that some of the information required by the present employment application form, although prohibited under the Human Rights Code, is necessary to enable them to make a proper selection of personnel. This legislation has not been in operation very long, and it may very well be that arising from the experience in the

operation of the Human Rights Code improvements can be made. This however, is a matter for the Ontario Government to consider, influenced perhaps by representations which may be made from various persons or organizations, and is not a matter for a Commissioner to inquire into.

I find that the employment forms used by the City of Ottawa have not been in compliance with the requirements of the Act. However, the City solicitor, on behalf of the City of Ottawa, has undertaken to adapt the application forms so they will be in compliance with the statute, and when this has been done I would respectfully suggest that your file should be closed in connection with the complaints into which I was called upon to inquire.

(Signed) J. C. Anderson

Judge J. C. Anderson
Board of Inquiry

DATED at Belleville, Ontario,
this 28th day of February, 1964.

